

## SECTION 10 - EMPLOYMENT RELATIONSHIP

Effective	<u>10/1/11</u>
Replaces Policy	<u>Same</u>
Dated	<u>1/21/09</u>

### 10.1 Employment Contracts.

Employment contracts are subject to the approval of the City Commission.

### 10.2 City Manager and City Attorney.

The City Manager and the City Attorney shall serve at the will and pleasure of the City Commission as an employee of the City as well as in the position under a contract of employment approved by the Commission.

### 10.3 City Attorney's Staff.

The City Attorney's staff is subject to appointment, suspension, demotion and termination at the will and pleasure of the City Attorney and shall be supervised and evaluated by the City Attorney.

### 10.4 All Other Employees.

All employees of the City not covered by one or more Paragraphs above, shall be subject to all forms of disciplinary action, including termination of their employment, at the will and pleasure of the appointing authority.

### 10.5 Discipline.

- A. The purpose of discipline is to ensure high standards of performance and efficiency, to maintain good working relationships among employees and to provide the residents of our City with the highest possible level of courteous and professional public service.
- B. Discipline in the City organization is for the most part "self-discipline." It is the duty of employees to make conscientious effort to work and behave in accordance with the values, service standards, rules and regulations of the City and the department where they work. Each employee is expected to be self disciplined and to work hard at being the best at what he or she does and in helping the City provide a high level of public service. When an employee does not exercise adequate self-discipline or is not successful in meeting the requirements of the job, it may be necessary for the Department Director or supervisor to consider disciplinary actions to correct the problem.

- C. It is the hope of the City that effective supervision and employee relations will avoid most difficulties which otherwise might necessitate discipline of employees. However, when disciplinary action becomes necessary, the City recognizes the fact that each situation differs in many respects from others that may be similar in some ways. Thus, the City retains the right to treat each incident on an individual basis without creating a precedence for other cases which may arise in the future as to a particular employee or group of employees and to determine the appropriate discipline in every matter on a case by case basis.

#### **10.6 Authority to Discipline.**

Department Directors are responsible for the conduct and effective performance of all employees under their jurisdiction and have the authority and responsibility to discipline employees in accordance with this Personnel Policies and Procedures manual provided, however, termination of full time employees shall be subject to the approval of the City Manager.

#### **10.7 Forms of Discipline.**

- A. The City recognizes the following forms of discipline:
1. Verbal warning.
  2. Written warning.
  3. Suspension with or without pay.
  4. Demotion.
  5. Last Chance Agreement.
  6. Combination of the above.
  7. Termination of employment.
- B. A Director may also combine a Last Chance Agreement with all forms of discipline except termination.

#### **10.8 Corrective Action/Disciplinary Procedure.**

- A. It is the policy of the City that all employees are expected to comply with the City's standards of behavior and performance and that any noncompliance with these standards must be remedied.

B. General Provisions:

1. Under normal circumstances, the City endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies and an opportunity to improve. The City does, however, retain the right to administer discipline in any manner it sees fit and to modify or delete these procedures at its sole discretion.
2. Corrective action is typically warranted when an employee is not meeting City standards of attendance, performance, or conduct (attitude or human relations).

C. Disciplinary Procedures: Facts and circumstances surrounding the incident or violation shall be carefully considered before taking any formal disciplinary steps. In all cases of formal corrective action and/or discipline taken, Human Resources should be contacted to ensure appropriate action steps are taken.

1. Verbal Warning

The intention of a verbal warning is to re-establish expectations, goals, and/or objectives. Supervisors who identify that an employee is not meeting expectations shall discuss the situation with the employee, to include the action necessary to correct the problem. Supervisors should document the conversation and keep that documentation as backup for the employee's annual performance evaluation. Supervisors may use a counseling form or use a standard memorandum to document the verbal warning.

2. Written Warning

A written warning is formal documentation of an incident or violation of expected performance and/or behaviors, usually taken place after a verbal warning has been given. Supervisors may use a Counseling Form, or may use a standard memorandum to document the warning. A copy shall be given to the employee and another copy forwarded to Human Resources for inclusion in the employee's file.

3. Suspension

Prior to any suspension being initiated, Human Resources shall be contacted. Human Resources will assist the department in determining whether a suspension is appropriate, and aid in determining the duration of the suspension. Employees in exempt positions may be suspended for as little as one day, if needed. The employee's immediate supervisor, with the approval of the department/division director or designee, shall notify the employee in writing of the proposed corrective action using the

Counseling form, and explain the reasons and circumstances relevant to the proposed corrective action.

After the employee is given a reasonable opportunity to review the Counseling Form with its notification of accusations/charges, usually twenty-four (24) hours, the immediate supervisor and/or department/division director or designee will hold a meeting giving the employee an opportunity to explain his/her version of the facts surrounding the accusations/charges. The employee may do this in writing or orally. The employee may bring another City employee to act as a representative or witness who voluntarily wishes to attend the meeting. Following this meeting, a final decision will be made. The Counseling form noting the final decision and the length of the imposed suspension, if upheld, shall be completed and a copy given to the employee and another copy forwarded to Human Resources for inclusion in the employee's file.

In situations where the employee's presence creates, in the City's opinion, a hazard to property, employees, the public, or otherwise interrupts the operations of the City; the employee may be immediately placed on administrative leave without pay. The immediate supervisor and/or department/division director or his designee shall then contact Human Resources to determine future action to be taken.

#### 4. Decision Making Leave

In certain situations a supervisor may elect to use the decision making leave as the final step in the corrective action process. During this process, an employee is given time off of work with pay, usually for one day, where they will decide if they are willing to make a commitment to the City. If the employee wants to re-commit to the City, they will sign a letter of commitment and/or last chance agreement. If they are not willing to make this commitment, they will leave the City; a severance package may or may not be offered. In all cases, Human Resources shall be consulted before beginning this process.

#### 5. Demotion or Termination

Prior to a demotion or termination being initiated, the immediate supervisor and/or department director or designee will conduct a formal investigation if applicable and Human Resources shall be contacted. Human Resources will assist the department in determining whether demotion or termination is appropriate and will consult with the City Attorney and City Manager. The employee shall be notified in writing of the proposed discipline action using the Counseling Form and a Notice of Discipline Meeting memorandum issued by the Human Resources Director. Notice shall be complete upon either management personally

handing it to the employee or mailing it to the employee's address as contained in the City personnel file. In the case of a termination recommendation, the employee shall immediately be placed on administrative leave without pay, for at least twenty-four (24) hours, until the time of the meeting described below, allowing the employee reasonable opportunity to review the accusations/charges in the Counseling Form.

The immediate supervisor and/or department director or designee and Human Resources Director will hold a meeting, normally within three (3) to five (5) business days of the notice, to give the employee an opportunity to explain his/her version of the facts surrounding the accusations/charges. The employee may do this in writing or orally. The employee may bring another City employee who voluntarily wishes to attend the meeting to act as a representative or witness. Following this meeting, a final decision will be made. A Counseling Form noting the final decision shall be completed and provided to the employee and another forwarded to Human Resources for inclusion in the employee's file. If the employee is placed on administrative leave without pay, all terms and conditions of employment shall continue pending final decision and the action effectively taken.

#### D. Appeal Procedure:

The employee may appeal a formal disciplinary action to the City Manager or his/her designee within seven (7) calendar days after notice of the disciplinary action. Any appeal must be in writing and must set forth the reasons why the employee desires that the action should be reviewed.

Upon receipt of a timely appeal, the City Manager or his/her designee shall arrange a meeting with the employee, at which the Department Director may be required to attend. The City Manager or his/her designee shall consider the evidence and testimony and make a decision which shall be final and binding on all concerned.

In the event an appeal is filed which involves two (2) or more employees being involved in the incident, the City Manager may rule that the appeal be consolidated for hearing and decision.

### **10.9 Types of Offenses.**

Listed below are example offenses for which City Employees may be disciplined up to and including termination. Nothing herein shall be construed to limit disciplinary action to the sample offenses enumerated below. The City of Deltona is an employment-at-will employer and reserves the right to terminate an employee for any reason.

1. Quitting work, wasting time, loitering or leaving assigned work area during working hours without permission.
2. Excessive tardiness and/or absenteeism, which disrupts departmental operation regardless of the reason unless allowed by applicable law such as the FMLA.
3. Taking more than allowable times for meal or rest periods.
4. Unacceptable, inefficient productivity or competency.
5. Sleeping on the job unless authorized to do so.
6. Reporting to work or working while unfit for duty, either mentally or physically, unless the condition is a disability in which case the matter will be dealt with in accordance with applicable law.
7. Violating a safety rule or practice.
8. Engaging in horseplay, scuffling, wrestling, throwing things, malicious mischief, distracting the work of others, catcalls, or other disorderly conduct.
9. Failure to report the loss or damage of City equipment or other City property entrusted in the employee's custody.
10. Failure to keep the City and department notified of the employee's current proper address and telephone number.
11. Gambling, lottery or engaging in any other game of chance, while on duty, or that brings disrepute upon the City, or not authorized by the City Manager.
12. Violation of published City or departmental policies, rules, standard, orders, operating procedures or regulations, or code of conduct.
13. Unexcused tardiness or absence.
14. Violation of the Standards of Conduct.
15. Not wearing required safety clothing or equipment.
16. Conviction of a felony.
17. Abuse of leave privileges.
18. Use of official position for personal advantage.
19. Deliberately or negligently misusing, destroying, losing or damaging any City property or property of an employee.

20. Falsification of personnel, City, or Departmental records, including employment applications, accident records, work records, purchase orders, time sheets, or any other report, record, or document.
21. Making false claims or intentional misrepresentation in an attempt to obtain sickness or accident benefits, workers' compensation, or any other benefit.
22. Insubordination or the refusal to perform work assigned, or to comply with written or verbal instructions of their Supervisor, Director or the City Manager.
23. Use or possession or display of explosives in City buildings or property unless authorized.
24. Removal of City property or any other employee's property from City locations without proper authorization, including theft of City property or any employee's property.
25. Failure to return at the end of an authorized leave of absence.
26. Concerted curtailment, restriction of production, or interference with work in or about the City's work stations including, but not limited to, instigating, leading, or participating in any walkout, strike, sit down, stand-in, slowdown, or refusal to return to work at the scheduled time for the scheduled shift.
27. Absent without permission or leave (AWOL).
28. Acceptance of a gift, service, or anything of value in the performance of duty or under any other circumstances where the employee knew or should have known it was given with an expectancy of obtaining a service or favored treatment.
29. Possession, use, sale, attempt to sell, or procure illegal controlled substances at any time whether on or off City property or whether on or off duty; and use, sale or attempt to sell or procure alcoholic beverages while on duty, on City property, or while operating or riding in or on City equipment.
30. Refusal to fully and truthfully cooperate in an investigation conducted by or at the direction of the City.
31. On or off the job conduct which adversely affects the ability of the employee to perform his duties and/or adversely affects the efficient operation of the City government or any department, division, or area of City government.
32. Discourteous, insulting, abusive, or inflammatory language or conduct toward the public or co-workers.
33. Improper comments, harassment or violent acts based upon a protected status and directed to any City employee or the general public.

34. Threatening, intimidating, coercing, bullying or interfering with fellow employees or supervision at any time.
35. Provoking or instigating a fight or fighting while on duty.
36. Unauthorized personal use of the City's exempt tax number for any reason.
37. Accepting a bribe or gratuity, committing an illegal act or accepting a gratuity for performing the normal duties as a City employee.
38. Failure to report in writing an offer of a bribe or gratuity, to permit, ignore, allow or commit an illegal act.
39. Communicating or imparting confidential information either in writing or verbally to any unauthorized person.
40. Refusal to sign an acknowledgment of receipt of disciplinary action.
41. Failure to possess and maintain a current and valid state motor vehicle operator's license, if driving a vehicle is required by the City as an essential part of the employee's job.
42. Failure to immediately report an arrest or conviction of a DUI or DWI to the City when driving a vehicle is or may be required of the employee.
43. Loss of a license or certification required by the City, the State or other governmental entity to perform the job for which the employee is assigned.
44. Failure to return to light duty when assigned to do so.
45. Disclosure of medical information which violates HIPAA regulations and other laws.
46. Failure to immediately report an on-the-job accident or personal injury.
47. Theft and/or embezzlement and/or extortion.

The above list does not include all of the reasons for which an employee may be subject to disciplinary action, but as stated earlier, is intended to provide examples of inappropriate conduct.

#### **10.10 Suspension Pending Resolution of Criminal Charges.**

In the event an employee is charged with any crime, the employee may be suspended with or without pay. At any time, the City Manager shall have the option of taking disciplinary action based on his/her own investigation without regard to the existence, status or final disposition of the criminal charges.



The City Manager may elect to wait until the criminal proceeding, or a particular phase thereof is concluded before considering disciplinary action. In such a case, the City Manager may take the resolution of the criminal proceeding, or phase thereof, under consideration but shall not be bound thereby and shall make a determination as to the facts and the appropriate disciplinary action, if any.

If an employee charged with a crime is found not guilty by a judge or jury, and the City Manager determines no disciplinary action is warranted, the City Manager will determine whether the employee will be reinstated or reemployed and what other relief, if any, the employee shall be afforded.